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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,587	02/28/2005	Akira Sano	JP920020141US1	3809
48916	7590	06/05/2008		
Greg Goshorn, P.C. 9600 Escarpment Suite 745-9 AUSTIN, TX 78749			EXAMINER BILAS, ROBERT	
			ART UNIT 4121	PAPER NUMBER
			MAIL DATE 06/05/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/526,587	Applicant(s) SANO, AKIRA	
	Examiner ROBERT BILAS	Art Unit 4121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2008; 28 Feb. 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 10526587.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02/28/2005, 02/01/2007, 11/16/2007, 01/17/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawing

1. The drawings are objected to because in figure 9, the “asynchronous reception control unit” and “service quality information accumulation and query unit” are incorrectly numbered as “22” and “23” respectively. The correct numbering scheme should be “23” and “22” respectively. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities In paragraph 2 of page 14, “spML” should be --sqML--..

Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The disclosed invention contains nonfunctional descriptive material which is non-patentable subject matter per the MPEP 2106.01. Claim no. 8 states “... information for determining the quality of services from the management site, whereto the information is collected by a provider that provides the software services and includes a number of times the software services have been used, a frequency of use corresponding to the software services; an execution time corresponding to the software services and a maintenance time corresponding to the software services;...”. The claim language uses the intended use clause “for”. This language suggests or makes optional the step(s) that follow and does not limit the scope of the claim by adding required functionality. See MPEP 2106 II. C.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 8 is rejected under 35 U.S.C. 102(b) as the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

According to www.web.archive.org, a search for the website Nextag.com yielded results showing archived web pages going back to at least the year 2000 (see the August 28, 2000 archived web page [http://web.archive.org/web/20010122041400/www.nextag.com/serv/main/buyer/Home.jsp;\\$sessionid\\$6DyK+vhsthAcvzX1ZcUo](http://web.archive.org/web/20010122041400/www.nextag.com/serv/main/buyer/Home.jsp;$sessionid$6DyK+vhsthAcvzX1ZcUo)).

Nextag teaches a method for transmitting a search request for a service to a management site that searches for software services provided via a network (Nextag discloses a search box and selectable search categories for products (i.e. “services”) on the Nextag website via the Internet);

obtaining a service search result (Nextag discloses the presentation of product search results to a user requester);

selecting at least one software service based on the obtained search result (Nextag discloses selecting one of the products that are presented in the search result);
and

transmitting a request to execute the selected service to the provider (Nextag discloses to the user requesting to open a product web page).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claim 8 is rejected under 35 U.S.C. 102(e) as being anticipated by Thomas et al (U.S. 7319979). Thomas teaches transmitting a search request for a service to a management site that searches for software services provided via a network (Thomas teaches a client making a request to a broker for a desired Internet service (see Figure 2, block 202)), obtaining a service search result including information for determining the quality of services from the management site (Thomas teaches a broker locating a match between the client request and registered services and sending the client metadata of the search(see Figure 2, blocks 204 and 206)), selecting at least one software service based on the obtained search result (Thomas teaches a client parsing metadata of the search result and determines the location and name of the communication proxy and client downloading the communication proxy to the client node (see Figure 2, blocks 208 and 210)) and transmitting a request to execute the selected service to the provider (Thomas teaches a client interacting with the local

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communication proxy and having the communication proxy interacting with the service on behalf of the client (see Figure 2, blocks 212 and 214)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT BILAS whose telephone number is (571)270-5658. The examiner can normally be reached on Monday - Thursday, Alt. Friday, 7:30am -5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Robertson can be reached on 571-272-4186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. B./
Examiner, Art Unit 4121

/RAMY OSMAN/
Primary Examiner, Art Unit 4121

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